

REMARKS

In the Office Action, claims 1-19 were rejected. By the present Response, claim(s) 1, 6, and 14-19 are amended. Claims 3-5, 17, and 18 are cancelled. Claims 20-24 are added. Upon entry of the amendments, claims 1-2, 6-16, and 19-24 will remain pending in the present patent application. Reconsideration and allowance of all pending claims are requested.

New Claims

New claims 20-24 are dependent claims, and are directed generally to features of service data and the service report, as well as to timing of data transmission. Support for the new claims can be found in the specification, for example, on page 5, lines 22-30, page 6, lines 1-5, and page 6, lines 6-14.

Objection to the Drawings

The drawings were objected to because they contained certain informalities. Replacement drawings were provided that render the objections moot. Applicants also note that a replacement paragraph was provided to correct a numbering informality. Applicants respectfully request withdrawal of the objection to the drawings.

Objection to the Claims

In the Office Action, the Examiner objected to claim 1 because line 10 recites "network, and" the comma should be amended to a semi-colon, claim 4, because line 26 recites "for review by a service provider" the "a" should be amended to read "the" or "said". Although Applicants do not necessarily agree with the Examiner's objection, Applicants amended the claims as set forth above. Applicants note that the objection to claim 4 is moot upon cancellation of this claim. In view of these amendments, the Applicants respectfully request the Examiner withdraw the objection to the claims.

Rejections Under 35 U.S.C. § 112

The Examiner rejected claims 1-5 and 14 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regard as the invention. Specifically, the Examiner rejected claims 1 and for including terms for which there was no antecedent basis. In view of the above amendments, Applicants respectfully request withdrawal of the 35 U.S.C. § 112, second paragraph rejection of pending claims 1-2 and 14.

Rejections under 35 U.S.C. § 101

In the Office Action, the Examiner rejected claims 15-17 under 35 U.S.C. § 101 as directed to non-statutory subject matter. Applicants respectfully traverse this rejection. Without necessarily agreeing with the Examiner, Applicants have amended claims 15-17 to reflect that the claims are directed to a machine-readable medium storing machine-executable instructions in order to advance the prosecution of this case.

Rejections Under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1, 5, 6, 11, 15, and 16 under 35 U.S.C. § 102(b) as anticipated by Yokoi et al. U.S. Patent No. 6,972,565, (hereinafter “Yokoi”). Applicants respectfully traverse this rejection.

A *prima facie* case of anticipation under 35 U.S.C. § 102 requires a showing that each limitation of a claim is found in a single reference, practice or device. *In re Donohue*, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

Applicants note that in light of the amendments to independent claims 1, 6, and 15, the rejection under 35 U.S.C. § 102(b) is moot. Yokoi, as noted by the Examiner, does not disclose receiving data automatically from a medical device to a computer system via a communications network, wherein the medical device is operable to detect an alteration of at least one of medical device hardware or medical device software, and

wherein the medical device data transmitted automatically by the medical device is representative of the alteration to the medical device. Accordingly, Yokoi does not anticipate claims 1, 6, and 15, or their pending dependent claims 11 and 16. Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102(b). Applicants also direct the Examiner to pages 12 and 13 of the present Response for a discussion of the foregoing features with respect to the secondary reference, Kaseya, cited by the Examiner on the rejections under 35 U.S.C. § 103(a).

Rejections Under 35 U.S.C. § 103

The Examiner rejected claims 2, 9, 17, and 19 under 35 U.S.C. § 103(a) as unpatentable over Yokoi in view of Krasner U.S. Patent No. 5,825,327, (hereinafter “Krasner”), claims 3, 8, 10, and 18 under 35 U.S.C. § 103(a) as unpatentable over Yokoi in view of “Reliable Design of Medical Devices” by Richard C. Fries (hereinafter “Fries”), claims 4, 12, 13, and 14 under 35 U.S.C. § 103(a) as unpatentable over Yokoi in view of “Virtual System Administrator” website accessed for the date of 24 April 2003 via <http://web.archive.org/web/20030424123138/http://www.kaseya.com/> (hereinafter “Kaseya”).

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (B.P.A.I. 1979). To establish a *prima facie* case of obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974). However, it is not sufficient to show that all the elements exist in the prior art, since a claimed invention composed of several elements may not be proved obvious merely by demonstrating each element was known, independently, in the prior art. *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007). It is important to identify a reason that would have prompted a person of ordinary skill

in the relevant field to combine the elements in the way the claimed new invention does. *Id.* Specifically, there must be some articulated reasoning with a rational underpinning to support a conclusion of obviousness; a conclusory statement will not suffice. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Indeed, the factual inquiry determining whether to combine references must be thorough and searching, and must be based on *objective evidence of record*. *In re Lee*, 61 U.S.P.Q.2d 1430, 1436 (Fed. Cir. 2002).

Rejection of claims 2, 9, 17, and 19 based on Yokoi and Krasner

In light of the amendments to independent claims 1, 6, and 15, the rejection of claims 2, 9, 17, and 19 under 35 U.S.C. § 103(a) as unpatentable over Yokoi in view of Krasner is moot. Neither Yokoi nor Krasner disclose a limitation relating to a medical device being operable to communicate with a remote computer via a communication system, wherein the medical device is operable to detect a change in each of the hardware and the software and to automatically transmit a signal representative of the change to the remote computer. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 2, 9, 17, and 19 under 35 U.S.C. § 103(a).

Rejection of claims 2, 9, 17, and 19 based on Yokoi and Fries

In light of the amendments to independent claims 1, 6, and 15, the rejection of claims 3, 8, 10, and 18 under 35 U.S.C. § 103(a) as unpatentable over Yokoi in view of Krasner is moot. Neither Yokoi nor Krasner disclose a limitation relating to a medical device being operable to communicate with a remote computer via a communication system, wherein the medical device is operable to detect a change in each of the hardware and the software and to automatically transmit a signal representative of the change to the remote computer. Accordingly, Applicants

respectfully request withdrawal of the rejection of pending claims 8, 10, and 18 under 35 U.S.C. § 103(a).

Rejection of claims 4, 12, 13, and 14 based on Yokoi and Kaseya

In rejecting claims 4, 12, 13, and 14, the Examiner stated:

However, Yokoi does not disclose that the device detects the alteration in the system or that the detection of the alteration is automatically transmitted. Kaseya discloses that the device is operable to detect and alteration of system components and the data transmitted automatically is representative of the alteration to the system.

It would have been obvious to one of ordinary skill in the art at the time if the invention to modify Yokoi with Kaseya since the knowledge of software and hardware changes may ensure required operational parameters are met (Yokoi column 8, lines 26-38) and that automatic attainment of this information would reduce user error in a manual input of this information should it be forgotten or incorrectly entered.

Office Action, pp. 10-11.

Applicants traverse this rejection and note that the combination of Yokoi and Kaseya does not disclose all the limitations of pending claims 1, 2, and 6-22. The pending claims all include limitations that relate to a medical device that is operable to detect an alteration of at least one of medical device hardware or medical device software, and where the medical device data transmitted automatically by the medical device is representative of the alteration to the medical device. While the Examiner correctly notes that Yokoi contains no such disclosure, Kaseya does not overcome the deficiency of Yokoi.

Kaseya relates to an auditing system that is a remote management system. Accordingly, the remote management may monitor several stations as part of a network and provide a list of software or hardware changes to a web-based browser system. Kaseya does not disclose a medical device operable to detect alteration of at least one of medical device

hardware and medical device software and then transmit the information automatically to a service station. The combination of Yokoi and Kaseya does not yield a medical device with the capability of performing the audit in a “self-aware” manner. As stated in the specification:

In the illustrated embodiment, the medical imaging system 22 is self-aware, i.e., the medical imaging system 22 inventories its software and hardware and automatically transmits service data representative of the change made to the software or hardware to the service center 28 when a change is made to the software or hardware. In this regard, the medical imaging system 22 is similar to a personal computer that has plug-and-play capability.

Specification, p. 3, lines 28-31-p. 4, lines 1-3.

Accordingly, because Kaseya does not appear to disclose a medical device that automatically inventories hardware or software in a self-aware manner, Kaseya involving remote management from a central station, the combination of Tokoi and Kaseya does not yield the Applicants’ claimed subject matter. Applicants respectfully request that the rejection of pending claims 12, 13, and 14 under 35 U.S.C. § 103(a) be withdrawn. Applicants further note that the combination of Tokoi and Kaseya does not apply to independent claims 1, 6, 11, and 15, as well as their dependent claims, for the reasons outline above.

Conclusion

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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